

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

KENNETH F. BUTTERFIELD,

Plaintiff,

v.

CASE NO. 2:07-CV-11477
HONORABLE VICTORIA A. ROBERTS

RUO SANDERS, et al.,

Defendants.

**ORDER DENYING PLAINTIFF'S LETTER/PETITION
FOR REFUND OF A PARTIAL FILING FEE**

Before the Court is Plaintiff's Letter/Petition requesting that the Court rescind its June 5, 2007 order requiring him to pay an initial partial filing fee and partial payments for an appeal in a prisoner civil rights action brought pursuant to 42 U.S.C. § 1983. By way of background, on April 10, 2007, the Court summarily dismissed Plaintiff's complaint on *res judicata* grounds and for failure to state a claim upon which relief may be granted. Plaintiff filed a motion for reconsideration/rehearing, which the Court denied on April 27, 2007. The Court initially entered an order denying his application to proceed *in forma pauperis* on appeal and concluding that an appeal could not be taken in good faith, but then on June 5, 2007 granted his application to proceed without prepayment of the filing fee. On February 11, 2008, the Sixth Circuit issued an order affirming this Court's dismissal of Plaintiff's complaint.

Plaintiff seeks to relieve himself from payment of the \$455.00 filing fee for his dismissed appeal. Under the Prison Litigation Reform Act ("PLRA"), a prisoner who qualifies to proceed

in forma pauperis in a civil rights action is still liable for the civil action filing fee and must pay the fee through partial payments as outlined in 28 U.S.C. § 1915(b). The PLRA does not allow any exemptions to the requirement that an indigent prisoner pay the filing fee over time. *See White v. Paskiewicz*, 89 Fed. Appx. 582, 584 (6th Cir. 2004) (citing *In re Prison Litigation Reform Act*, 105 F.3d 1131, 1133-34 (6th Cir.1997); *McGore v. Wrigglesworth*, 114 F.3d 601, 605 (6th Cir. 1997)). Plaintiff is liable for the full filing fee, to be paid in installments, even though he was granted *in forma pauperis* status and his appeal was dismissed. Plaintiff's letter request for a refund is therefore **DENIED**.

IT IS SO ORDERED.

S/Victoria A. Roberts

Victoria A. Roberts
United States District Judge

Dated: May 29, 2008

The undersigned certifies that a copy of this document was served on the attorneys of record and pro se plaintiff by electronic means or U.S. Mail on May 29, 2008.

s/Carol A. Pinegar
Deputy Clerk